Remarks

This Application has been carefully reviewed in light of the Office Action mailed July 6, 2004. Applicants appreciate the Examiner's consideration of this Application. Although Applicants believe all claims are allowable without amendment, Applicants have made clarifying amendments to independent Claims 1, 34, and 45, at least some of which are not narrowing. Applicants do not consider these amendments necessary for patentability. Applicants respectfully request reconsideration and allowance of all pending claims.

The Examiner asserts, "Claim 12 specifies the phrase 'operable to' and it has been held that the recitation that an element is 'adapted to' perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense." Applicants note that the Examiner does not reject or object to Claim 12 based on the assertion that "the recitation that an element is 'adapted to' perform a function is not a positive limitation but only requires the ability to so perform." Neither does the Examiner reject or object to Claim 12 based on the assertion that such a recitation "does not constitute a limitation in any patentable sense." Applicants take no position at this time regarding whether either of these assertions is correct or whether either of these assertions applies to independent Claim 12.

The Examiner Indicates Dependent Claims 3-4, 6, 11, 15-16, 22-23, 25-26, 32-33, 35-37, 39, 44, 46, and 48 are Allowable

Applicants appreciate the Examiner's indication that dependent Claims 3-4, 6, 11, 15-16, 22-23, 25-26, 32-33, 35-37, 39, 44, 46, and 48 are allowable. Applicants maintain that independent Claims 1, 12, 24, 34, and 45 are also allowable. Therefore, Applicants have not amended dependent Claims 3-4, 6, 11, 15-16, 22-23, 25-26, 32-33, 35-37, 39, 44, 46, and 48 to include all the limitations in their base claims and any intervening claims.

Independent Claims 1, 34, and 45 are Allowable Over *Gummalla*

The Examiner rejects independent Claims 1, 34, and 45 under U.S. Patent Application Publication No. 2002/0064169 to Gummalla ("*Gummalla*") under 35 U.S.C. § 102(e).

Gummalla merely discloses a cable modem (CM) setting up a call and a cable modem termination station (CMTS) admitting the call. (Paragraph 25). According to *Gummalla*, multiple calls are multiplexed and transmitted from the CM to the CMTS. When temporary silence occurs during a call, the CM communicates a message to the CMTS indicating that the call is temporarily inactive. (Paragraphs 25 and 26). In response to the message from the CM indicating that the call is temporarily inactive, the CMTS temporarily withholds bandwdith from the call. (Paragraph 25). When the temporary silence ends, the CM communicates a message to the CMTS indicating that the call is active again. (Paragraph 25). In response to the message from the CM indicating that the call is active again, the CMTS returns bandwidth to the call. (Paragraph 25). Later, when the call is terminated, the CM communicates a "delete call" message to the CMTS and, in response to the "delete call" message, the CMTS communicates a "call deleted" message to the CM. (Paragraph 25).

In contrast, independent Claim 1 of the present Application recites:

> A method for recovering a call resource from a call session, comprising:
>
> during a call session comprising a plurality of media streams each communicated from one of a plurality of devices to a call resource via a communication network, detecting if one of the media streams becomes inactive;
>
> in response to one of the media streams becoming inactive during the call session, deleting the media stream that has become inactive from the call session;
>
> repeating detection and deletion of inactive media streams from the call session until only one media stream remains in the call session; and
>
> in response to only one media stream remaining in the call session, terminating the one remaining media stream to release the call resource from the call session.

To reject independent Claim 1, the Examiner asserts that temporary silence occurring during a call in *Gummalla* can be properly considered *one of the media streams becoming inactive*, as recited in independent Claim 1. The Examiner further asserts that temporarily withholding bandwdith from the call in response to the temporary silence during the call in *Gummalla* can be properly considered, *in response to one of the media streams becoming inactive during the call session, deleting the media stream that has become inactive from*

the call session, as recited in independent Claim 1. Applicants respectfully disagree with the Examiner.

Even assuming for the sake of argument that a call in *Gummalla* could be properly considered *a media stream*, as recited in independent Claim 1, and that temporary silence occurring during the call could be properly considered the call *becoming inactive*, as recited in independent Claim 1, nowhere does *Gummalla* disclose, teach, or suggest *deleting* the call *in response to* the call *becoming inactive*, as recited in independent Claim 1. As discussed above, the CMTS in *Gummalla* merely withholds bandwdith from a call temporarily in response to the call becoming inactive. Later, when the CM in *Gummalla* communicates a message to the CMTS indicating that the call is active again, the CMTS returns bandwidth to the call. Moreover, *Gummalla* makes clear that the CMTS deletes a call in response to a "delete call" message from the CM, not in response to the call *becoming inactive*. For at least these reasons, temporary silence occurring during a call in *Gummalla* cannot be properly considered *one of the media streams becoming inactive*, as recited in independent Claim 1, and temporarily withholding bandwdith from the call in response to the temporary silence during the call in *Gummalla* cannot be properly considered, *in response to one of the media streams becoming inactive during the call session, deleting the media stream that has become inactive from the call session*, as recited in independent Claim 1.

Because *Gummalla* fails to disclose, teach or suggest *one of the media streams becoming inactive* and, *in response to one of the media streams becoming inactive during the call session, deleting the media stream that has become inactive from the call session*, as recited in independent Claim 1, *Gummalla* also necessarily fails to disclose, teach or suggest:

- *repeating detection and deletion of inactive media streams from the call session until only one media stream remains in the call session*, as recited in independent Claim 1; and

- *in response to only one media stream remaining in the call session, terminating the one remaining media stream to release the call resource from the call session*, as recited in independent Claim 1.

For at least the above reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 1, 34, and 45 and all their dependent claims.

Independent Claim 12 is Allowable Over *Gummalla*

The Examiner rejects independent Claim 12 under *Gummalla* under 35 U.S.C. § 102(e).

Independent Claim 12 of the present Application recites:

> A call resource, comprising:
> a network port operable to communicate media streams between a plurality of devices in a call session;
> a media processor coupled to the network port, the media processor operable to conduct the call session; and
> a controller coupled to the network port, the controller operable to release the media processor from the call session if a call manager becomes unavailable and one device remains as a participant in the call session.

To reject independent Claim 12, the Examiner asserts that the CMTS varying sizes of unsolicited grants (USGs) to CMs to conserve bandwidth can be properly considered *the controller releasing the media processor from the call session if a call manager becomes unavailable and one device remains as a participant in the call session*, as recited in independent Claim 12. Applicants respectfully disagree with the Examiner. Even assuming for the sake of argument that the CMTS and the USG in *Gummalla* could be properly considered *the controller* and *the media processor*, respectively, as recited in independent Claim 12, *Gummalla* would still fail to disclose, teach, or suggest the CMTS *releasing* the USG *from the call session if a call manager becomes unavailable and one device remains as a participant in the call session*, as recited in independent Claim 1. For at least the above reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 12 and all its dependent claims.

Independent Claim 24 is Allowable Over *Gummalla*

The Examiner rejects independent Claim 24 under *Gummalla* under 35 U.S.C. § 102(e).

Independent Claim 24 of the present Application recites:

> A communication system, comprising:
> a plurality of devices operable to couple to a packet-based network;
> a call manager operable to couple to the packet-based network, the call manager further operable to manage a call session between the devices; and
> a call resource operable to couple to the packet-based network, the call resource further operable to:
> > exchange a plurality of media streams between the devices participating in the call session; and
> > terminate the call session if the call manager becomes unavailable and one device remains as a participant in the call session.

To reject independent Claim 24, the Examiner asserts that the CMTS in *Gummalla* communicating a "call deleted" message to the CM in *Gummalla* in response to the CM communicating a "delete call" message to the CMTS when a call is terminated can be properly considered *a call resource terminating the call session if the call manager becomes unavailable and one device remains as a participant in the call session*, as recited in independent Claim 24. Applicants respectfully disagree with the Examiner. Even assuming for the sake of argument that the CMTS in *Gummalla* communicating the "call deleted" message to the CM in *Gummalla* could be properly considered *a call resource terminating the call session*, as recited in independent Claim 1, *Gummalla* would still fail to disclose, teach, or suggest the CM in *Gummalla* communicating the "delete call" message to the CMTS *if the call manager becomes unavailable and one device remains as a participant in the call session*, as recited in independent Claim 24. For at least the above reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 24 and all its dependent claims.

Conclusion

For at least the foregoing reasons, Applicants respectfully request full allowance of all pending claims.

If the Examiner believes that a telephone conference would advance prosecution of this Application, the Examiner is invited to call Christopher W. Kennerly, Attorney for Applicants, at 214-953-6812.

Attached is a request for a one-month extension of time and a check in the amount of $110.00 covering the requested one-month extension of time. Although Applicants believe no other fees are due, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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